560-1
Federal regulations provide, in pertinent part, that:

(b) A state plan must—

(1) Specify a single State agency established or designated to administer or supervise the administration of the plan; and

(2) Include a certification by the State Attorney General, citing the legal authority for the single State agency to—

(i) Administer or supervise the administration of the plan; and

(ii) Make rules and regulations that it follows in administering the plan or that are binding upon local agencies that administer the plan.

(c) Determination of eligibility. (1) The plan must specify whether the agency that determines eligibility for families and for individuals under 21 is—

(i) The Medicaid agency; or

(ii) The single State agency for the financial assistance program under Title IV-A (in the 50 States or the District of Columbia).

(2) The plan must specify whether the agency that determines eligibility for the aged, blind, or disabled is—

(i) The Medicaid agency;

(ii) The single State agency for the financial assistance program under Title IV-A (in the 50 States or the District of Columbia); or

(iii) The Federal agency administering the supplemental security income program under Title XVI (SSI). In this case, the plan must also specify whether the Medicaid agency or the Title IV-A agency determines eligibility for any groups whose eligibility is not determined by the Federal agency.

(e) Authority of the single State agency. In order for an agency to qualify as the Medicaid agency—

(1) The agency must not delegate, to other than its own officials, authority to—

(i) Exercise administrative discretion in the administration or supervision of the plan, or

(ii) Issue policies, rules, and regulations on program matters.

(2) The authority of the agency must not be impaired if any of its rules, regulations, or decisions are subject to review, clearance, or similar action by other offices or agencies of the State.

(3) If other State or local agencies or offices perform services for the Medicaid agency, they must not have the authority to change or disapprove any administrative decision of that agency, or otherwise substitute their judgment for that of the Medicaid agency with respect to the application of policies, rules, and regulations issued by the Medicaid agency.

(42 Code of Federal Regulations §431.10)

561-1A
Individuals eligible to receive PCSP payments must have a disability expected to last 12 months or end in death (§51350(b)); a need for at least one personal care service or paramedical service (§§51350(a) and 51183); a service provider who is not the parent (if a minor) or a spouse (§51181); and must not be receiving advance payment for services (Manual of Policies and Procedures (MPP) Handbook §30-780.4).

Prior to April 1, 1999, the individual must have also been a recipient of a categorical aid payment, i.e., AFDC/CalWORKs or SSI/SSP (§51350(b)), or beneficiaries of a categorically needy program, i.e., Pickle persons. Effective April 1, 1999, state law (Welfare and Institutions Code (W&IC) §14132.95) provided that the medically needy who were aged, blind and disabled recipients with a share of cost (SOC), including a zero SOC, are eligible for PCSP if they meet the other requirements of the program. (All County Welfare Directors Letter (ACWDL) No. 99-13, March 29, 1999; All-County Letter (ACL) No. 99-25, April 19, 1999; Assembly Bill No. 2779; ACL No. 94-47, June 10, 1994; W&IC §14132.95(k)(1)(A))

561-1B
By September 1, 1993, the California Department of Social Services shall notify Pickle eligible persons, and persons eligible for services under 42 United States Code §1383c(c), they may receive PCSP without an SOC rather than IHSS if they meet other PCSP requirements and agree to accept payment for services in arrears rather than on an advanced basis. (W&IC §14132.95(k))

561-2
Personal care services may be provided only to individuals who would be unable to remain safely at home without the services. (§51350(b))

For purposes of §51350(b), "home" means that place in which the beneficiary chooses to reside.

A person's "home" does not include a board and care facility, a facility licensed by the CDHS, nor a community care facility or a residential care facility licensed by the CDSS.

A person receiving an SSI/SSP payment for a nonmedical out-of-home living arrangement is not considered to be living in her or his "home". (§51145.1)

561-2A
The CDHS has defined a "home" as real or personal property, fixed or mobile, located on land or water, in which a person or family lives. (§50044)

561-2B
State law permits PCSP authorization for services "provided in the beneficiary's home and other locations as may be authorized by the director subject to federal approval." (W&IC §14132.95(a)(1))

561-3
Personal care services will be prescribed by a physician. The medical necessity for personal care shall be certified by a licensed physician at least annually. (§51350(c); see also Manual of Policies and Procedures Handbook §30-780.2(e))

As of October 1, 1994, the physician certification requirement (that the medical necessity for personal care had to be certified by a licensed physician at least annually) was eliminated. (All-County Letter No. 94-93, November 4, 1994, modifying §51350(c) based on federal law changes and Senate Bill 1028, Chapter 964, Statutes of 1994)

A licensed physician is one who is authorized to practice in California or a contiguous state, who is a Medi-Cal provider (even if practicing in another state), and osteopathic physicians who meet the above requirements (D.O.s).

A Christian Science practitioner may provide a written statement attesting to the client's belief as a Christian Scientist and the client's need for personal care services. This shall serve in lieu of the physician certification. All other religious practitioners must be approved by the Department of Health Services.

(All-County Letter (ACL) No. 93-67, September 10, 1993)

561-4
An otherwise eligible recipient who refuses to cooperate with the county to complete any required paperwork, including the Physician Certification (SOC 425) and the Provider Enrollment/Certification, or who fails to provide information needed to determine his/her PCSP eligibility and need for service, shall be ineligible for PCSP, and also for services under the residual IHSS Program. It is the county's responsibility to inform the recipient of the responsibility to complete these required forms, to explain the purpose of the forms, and to assist the recipients in obtaining the forms.

If a recipient has cooperated fully, and the doctor fails to complete the necessary documentation; or if a recipient cannot understand his/her reporting responsibility and has been referred for protective services, then the county shall assist the individual in securing a physician's certification or an authorized representative. The individual is not

eligible for residual IHSS pending such assistance, but is eligible for retroactive PCSP reimbursement for services subsequently authorized and actually delivered by a qualified provider on or after the date of application.

(All-County Letter (ACL) No. 93-67, September 10, 1993; ACL 94-07, January 25, 1994)

561-6
It is the position of the CDSS that if an "eligible recipient" (i.e., eligible, per CDHS, because the recipient receives a personal care service and the case is not in advance pay, receiving protective supervision, or the recipient has a spouse/parent provider) refuses to cooperate with the county by failing to complete the form SOC 426, or fails to provide information needed to determine his/her eligibility and need for service, the recipient cannot be authorized PCSP "and will not be eligible for the same services under the residual IHSS program", relying on Welfare & Institutions Code (W&IC) §§12300(f) and 14132.95(a) and (p). The CDSS says that, as stated in §30-757.1, a "PCSP eligible recipient cannot refuse personal care [emphasis added] under PCSP and still receive ancillary services from residual IHSS." (All-County Welfare Directors Letter No. 99-13, March 29, 1999; All-County Letter (ACL) No. 99-25, April 19, 1999)

561-6A
CDSS has stated that state regulations provide that a PCSP eligible recipient cannot refuse personal care under PCSP and still receive ancillary services from IHSS. The regulation cited by the CDSS provides in pertinent part:

"A person who is eligible for a personal care service provided pursuant to the PCSP shall not be eligible for that personal care service through IHSS." [emphasis added] (§30-757.1, cited in All-County Letter No. 99-25, April 19, 1999)

561-7
IHSS recipients with an SOC who were “potentially eligible for PCSP” were sent form SOC 426, and asked to return these forms to the county social services worker within five days.

It is the position of the CDSS (i.e., there have been no regulations issued) that if a recipient understands his/her responsibility and fails to cooperate, the county should issue a courtesy notice of noncompliance, specifying that the recipient must submit the provider enrollment form to the county within fifteen calendar days or lose eligibility for both IHSS and PCSP. At the end of the fifteen-day period, recipients who have not submitted the form should be sent a notice of action informing them that services will be discontinued in 10 days.

(All-County Letter No. 99-25, April 19, 1999)

562-1

A personal care services provider is that individual, county employee or county contracted agency authorized by the Department of Health Services to provide personal care services to eligible beneficiaries. An individual provider shall not be the parent of a minor child or a spouse. (§51181; see also Manual of Policies and Procedures (MPP) Handbook §30-767.3)

A "minor" means any person under the age of 18 who is not emancipated by marriage or other legal action. (MPP §30-701(m), renumbered from MPP §30-753(m), November 14, 1998)

A "spouse" means a person legally married to the beneficiary under the laws of the state of the couple's permanent home at the time they lived together. (MPP §30-701(s)(4), renumbered from MPP §30-753(s)(4), November 14, 1998)

562-2
All providers of personal care program services must be approved by the Department of Health Services (DHS) and shall sign the "Personal Care Program Provider/Enrollment Agreement" form designated by DHS, agreeing to comply with all applicable laws and regulations governing Medi-Cal and personal care service. (§§51483.1 and 51204)

562-3
PCSP beneficiaries shall be given a choice of service provider who meets personal care provider requirements. (51483.1)

The beneficiary, the beneficiary's personal representative or the legal parent or guardian (if the beneficiary is a minor) shall certify on the provider enrollment document that the provider is considered to be qualified to provide personal care. (§51204(a); see also Manual of Policies and Procedures Handbook §30-767.4)

562-4
Contract agency personal care providers shall be selected in accord with Welfare and Institutions Code §12302.1. (§51204(b); see also Manual of Policies and Procedures Handbook §30-767.4(b))

562-5
A provider of personal care services who has a grievance or complaint may initiate an appeal within 90 days of the action precipitating the grievance or complaint to the county department. A provider who is dissatisfied with the decision of the county department may seek judicial remedy pursuant to W&IC 14104.5 (§51015.2; see also MPP Handbook §30-767.5)

563-1
The Personal Care Service Program includes personal care and ancillary services.

Personal care services include:

(1) Assisting with ambulation. Ambulation does not include movement solely for the purpose of exercise.

(2) Bathing and grooming.

(3) Dressing.

(4) Bowel and bladder and menstrual care.

(5) Repositioning, transfer skin care (e.g., rubbing skin and repositioning to promote circulation and prevent skin breakdown) and range of motion exercises.

(6) Feeding, hydration assistance, cleaning face and hands following meal.

(7) Assistance with self-administration of medications.

(8) Respiration, nonmedical services, such as assistance with self-administration of oxygen and cleaning oxygen equipment.

(9) Paramedical services, as defined in Welfare and Institutions Code §12300.1. This includes administration of medications, puncturing the skin, or other activities requiring judgment based on training given by a licensed health care professional.

Ancillary services are limited to the following and are subject to time-per-task guidelines established in the Manual of Policies and Procedures (MPP). Ancillary services are:

(1) Domestic services.

(2) Laundry services.

(3) Reasonable food shopping and errands limited to the nearest available stores or facilities consistent with the beneficiary's economy and needs. This includes compiling a list, putting items away, phoning in and picking up prescriptions.

(4) Meal preparation and cleanup including planning menus.

(5) Accompanying the beneficiary to and from appointments with health care practitioners, and to the site where alternative resources provide IHSS, when the beneficiary's presence is required at the destination, and no other Medi-Cal service will provide the transportation.

(6) Heavy cleaning, which is thorough cleaning of the home to remove hazardous debris or dirt.

(7) Yard hazard abatement, which is light work in the yard.

(§51183; see also MPP Handbook §30-780.1)

563-2
Personal care services, as set forth in §51183, shall be authorized by the county department based on the Uniform Assessment tool. The needs assessment process shall be governed by the Manual of Policies and Procedures (MPP), §§30-760, 30-761 and 30-763, unless inconsistent with the Medi-Cal Program. (§51350(a); see also MPP Handbook §30-780.2(a))

563-3
Personal care services shall not exceed 283 hours in a calendar month. (§51350(b); see also Manual of Policies and Procedures Handbook §30-780.2(b))

There is no dollar maximum limit. (All-County Letter No. 95-42, August 11, 1995)

563-3A
A nonseverely impaired individual (as referenced in Manual of Policies and Procedures (MPP) §30-753(s)(1), may receive a maximum of 195 hours per month.

When such an individual receives both protective supervision in the residual IHSS program, and PCSP, that individual may receive up to 195 hours per month of protective supervision, plus all of the PCSP needs, but not in excess of 283 hours per month. (All-County Letter No. 93-30, May 10, 1993, interpreting Welfare and Institutions Code §§12300(g)(2), 12303.4, and 14132.95)

563-4
Grooming excludes cutting with scissors or clipping toenails. (§51350(f); see also Manual of Policies and Procedures (MPP) Handbook §30-780.2(f))

563-5
Menstrual care is limited to external application of sanitary napkin and cleaning. (§51350(g); see also Manual of Policies and Procedures (MPP) Handbook §30-780.2(g))

563-6
Paramedical services include catheter insertion, ostomy irrigation, and bowel program. (§51350(g); see also Manual of Policies and Procedures (MPP) Handbook §30-780.2(g). They also include the need for skin and wound care if decubiti have developed. (§51350(h); see also MPP Handbook §30-780.2(h))

563-7
Range of motion exercises shall be limited to the general supervision of exercises which have been taught to the beneficiary by a licensed therapist or other health care professional to restore mobility restricted because of injury, disuse or disease. Range of motion exercises shall be limited to maintenance therapy when the specialized knowledge or judgment of a qualified therapist is not required and the exercises are consistent with

the beneficiary's capacity and tolerance. (§51350(h)(2); see also Manual of Policies and Procedures (MPP) Handbook §30-780.2(h)(2))

563-8
Following the *Arp* v. *Anderson* court case, counties were instructed that services provided by regional centers can no longer be considered an alternative resource under W&IC §12301(a) and MPP §30-763.61. PCSP and IHSS must be granted as though no services are being provided through a Regional Center. Determination of services to be provided must be based strictly on an assessment of the developmentally disabled applicant. (All-County Letter No. 98-53, July 9, 1998; *Arp* v. *Anderson*, San Diego County Superior Court, No. 711204, Stipulation for Final Judgment, February 18, 1998)

564-1
The Personal Care Services Program (PCSP) provides personal care services to eligible Medi-Cal beneficiaries pursuant to Welfare and Institutions Code §14132.95 and Title 22, California Code of Regulations and is subject to all other provisions of Medi-Cal statutes and regulations. The program is operated pursuant to Manual of Policies and Procedures (MPP) Division 30. (MPP §30-700.2)

564-2
Individuals who qualify for both IHSS and PCSP funding shall be funded by PCSP. (Manual of Policies and Procedures (MPP) §30-700.3) The only exceptions are that the restaurant meal allowance (See Department of Social Services (DSS) All-County Letter (ACL) No. 93-21, March 16, 1993) and protective supervision (See DSS ACL No. 93-30, May 10, 1993) shall be funded from the residual IHSS Program.

564-3
Under state law, the purpose of the IHSS Program is to provide those supportive services to Aged, Blind and Disabled (ABD) persons who are unable to perform the services themselves and "who cannot safely remain in their homes or abodes of their own choosing unless these services are provided." (W&IC §12300(a))

564-4
The CDHS has defined a "home" as real or personal property, fixed or mobile, located on land or water, in which a person or family lives. (§50044)

565-1
Under Assembly Bill (AB) No. 2779, PCSP eligibility was extended to individuals who were not receiving categorical aid payments.

When the individual who is now PCSP eligible has both a Medi-Cal and an IHSS share of cost (SOC), the individual shall not be financially disadvantaged under the state law. If the IHSS SOC is higher, the recipient must meet the lower Medi-Cal SOC. If the Medi-Cal SOC is higher, the recipient must meet the lower IHSS SOC, and the state will pay the amount between the Medi-Cal and the IHSS SOC.

(All County Welfare Directors Letter No. 99-13, March 29, 1999)

566-1
The Personal Care Service Program includes personal care and ancillary services.

Personal care services include:

(1) Assisting with ambulation. Ambulation does not include movement solely for the purpose of exercise.

(2) Bathing and grooming.

(3) Dressing.

(4) Bowel and bladder and menstrual care.

(5) Repositioning, transfer skin care (e.g., rubbing skin and repositioning to promote circulation and prevent skin breakdown) and range of motion exercises.

(6) Feeding, hydration assistance, cleaning face and hands following meal.

(7) Assistance with self-administration of medications.

(8) Respiration, nonmedical services, such as assistance with self-administration of oxygen and cleaning oxygen equipment.

(9) Paramedical services, as defined in Welfare and Institutions Code §12300.1. This includes administration of medications, puncturing the skin, or other activities requiring judgment based on training given by a licensed health care professional.

Ancillary services are limited to the following and are subject to time-per-task guidelines established in the Manual of Policies and Procedures (MPP). Ancillary services are:

(1) Domestic services.

(2) Laundry services.

(3) Reasonable food shopping and errands limited to the nearest available stores or facilities consistent with the beneficiary's economy and needs. This includes compiling a list, putting items away, phoning in and picking up prescriptions.

(4) Meal preparation and cleanup including planning menus.

(5) Accompanying the beneficiary to and from appointments with health care practitioners, and to the site where alternative resources provide IHSS, when the

beneficiary's presence is required at the destination, and no other Medi-Cal service will provide the transportation.

(6) Heavy cleaning, which is thorough cleaning of the home to remove hazardous debris or dirt.

(7) Yard hazard abatement, which is light work in the yard.

(§51183; see also MPP Handbook §30-780.1)

566-2
In the PCSP, the following regulations apply to the evaluations of "personal care services":

(a) Personal care services include:

(1) Assisting with ambulation includes walking or moving around (i.e., wheelchair) inside the home, changing locations in a room, moving from room to room to gain access for the purpose of engaging in other activities. Ambulation does not include movement solely for the purpose of exercise.

(2) Bathing and grooming includes the cleaning of the body using a tub, shower or sponge bath, including getting a basin of water, managing faucets, getting in and out of tub or shower, reaching head and body parts for soaping, rinsing, and drying. Grooming includes hair combing and brushing, shampooing, oral hygiene, shaving and fingernail and toenail care.

(3) Dressing includes putting on and taking off clothes, fastening and unfastening garments and undergarments and special devices such as back of leg braces, corsets, elastic stockings/garments and artificial limbs or splints.

(4) Bowel, bladder and menstrual care includes assisting the person on and off toilet or commode and emptying commode, managing clothing and wiping and cleaning body after toileting, assistance with using and emptying bedpans, ostomy and/or catheter receptacles and urinals, application of diapers and disposable barrier pads.

(5) Repositioning, transfer skin care, and range of motion exercises:

(A) This includes moving from one sitting or lying position to another sitting or lying position; e.g., from bed to or from a wheelchair, chair, sofa, etc.; coming to a standing position; and/or rubbing skin and repositioning to promote circulation and prevent skin breakdown. However, if decubiti have developed, the need for skin and wound care is a paramedical service.

(B) Such exercises shall include the carrying out of maintenance programs, i.e., the performance of the repetitive exercises required to maintain function, improve gait,

maintain strength, or endurance; passive exercises to maintain range of motion in paralyzed extremities; and assistive walking.

(6) Feeding, hydration assistance includes reaching for, picking up, grasping utensils and cups, getting food on utensils; bringing food, utensils, cups, to mouth; manipulating food on plate. It also includes cleaning face and hands as necessary following meal.

(7) Assistance with self-administration of medications consists of reminding the beneficiary to take prescribed and/or over-the-counter medications when they are to be taken and setting up Medi-sets.

(8) Respiration limited to nonmedical services such as assistance with self-administration of oxygen, assistance in the use of a nebulizer, and cleaning oxygen equipment.

(9) Paramedical services are defined in Welfare and Institutions Code §12300.1 as follows:

"(A) Paramedical services include the administration of medications, puncturing the skin or inserting a medical device into a body orifice, activities requiring sterile procedures, or other activities requiring judgment based on training given by a licensed health care professional.

"(B) Paramedical services are activities which persons could perform for themselves but for their functional limitations.

"(C) Paramedical services are activities which, due to the beneficiary's physical or mental condition, are necessary to maintain the beneficiary's health."

(§51183(a))

566-3
In the PCSP, the following regulations apply to the evaluation of "ancillary services":

(b) Ancillary services are subject to time per task guidelines when established in MPP§§30-758 and 30-763.235(b) and 30-763.24 and are limited to the following:

(1) Domestic services are limited to the following:

(A) Sweeping, vacuuming, washing and waxing of floor surfaces.

(B) Washing kitchen counters and sinks.

(C) Storing food and supplies.

(D) Taking out the garbage.

(E) Dusting and picking up.

(F) Cleaning oven and stove.

(G) Cleaning and defrosting refrigerator.

(H) Bringing in fuel for heating or cooking purposes from a fuel bin in the yard.

(I) Changing bed linen.

(J) Miscellaneous domestic services (e.g., changing light bulbs and wheelchair cleaning, and changing and recharging wheelchair batteries) when the service is identified and documented by the case worker as necessary for the beneficiary to remain safely in his/her home.

(2) Laundry services include washing and drying laundry, and are limited to sorting, manipulating soap containers, reaching into machines, handling wet laundry, operating machine controls, hanging laundry to dry if dryer is not routinely used, mending or ironing, folding, and storing clothing on shelves or closets or in drawers.

(3) Reasonable food shopping and errands limited to the nearest available stores or other facilities consistent with the beneficiary's economy and needs; compiling a list; bending, reaching, and lifting; managing a cart or basket; identifying items needed; putting items away; phoning in and picking up prescriptions; and buying clothing.

(4) Meal preparation and cleanup includes planning menus, e.g., washing, peeling and slicing vegetables; opening packages, cans and bags; mixing ingredients; lifting pots and pans; reheating food; cooking; and safely operating stove, setting the table and serving the meals; cutting the food into bite-size pieces; washing and drying dishes, and putting them away.

(5) Assistance by the provider is available for accompaniment when the beneficiary's presence is required at the destination and such assistance is necessary to accomplish the travel limited to:

(A) Accompaniment to and from appointments with physicians, dentists and other health practitioners. This accompaniment shall be authorized only after county staff have determined that no other Medi-Cal service will provide transportation in the specific case.

(B) Accompaniment to the site where alternative resources provide IHSS to the beneficiary in lieu of IHSS. This accompaniment shall be authorized only after staff of the designated county department have determined that neither accompaniment nor transportation is available by the program.

(6) Heavy Cleaning which involves thorough cleaning of the home to remove hazardous debris or dirt.

(7) Yard hazard abatement which is light work in the yard which may be authorized for:

(A) Removal of high grass or weeds and rubbish when this constitutes a fire hazard.

(B) Removal of ice, snow or other hazardous substances from entrances and essential walkways when access to the home is hazardous

(§51183(b))